

DIRECTIVE

WORKFORCE INVESTMENT ACT

Number: WIAD02-5

Date: September 18, 2002
69:50:va:5911

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: LWIB RECERTIFICATION

EXECUTIVE SUMMARY:

Purpose:

The purpose of this directive is to communicate State of California policy and procedures regarding the recertification of Local Workforce Investment Boards (LWIB).

Scope:

This directive applies to all 50 California LWIBs.

Effective Date:

This directive is effective on the date of its issuance.

REFERENCES:

- The Workforce Investment Act (WIA), Section 117(a)(b) and (c).
- WIA Directive WIAD01-11, Subject: Exemplary Performance Incentive Award (March 11, 2002)
- WIA Directive WIAD02-4, Subject: LWIA Nonperformance Policy (September 18, 2002)

STATE-IMPOSED REQUIREMENTS:

This directive contains State-imposed requirements, which are indicated in ***bold, italic type***.

FILING INSTRUCTIONS:

This directive finalizes Draft Directive WIADD-40, issued for comment on August 20, 2002. Retain this directive until further notice.

BACKGROUND:

WIA Section 117(c)(2) CERTIFICATION states:

- (A) IN GENERAL – The Governor shall, once every 2 years, certify
1 local board for each local area in the State

- (B) CRITERIA – Such certification shall be based on criteria established under subsection (b) [MEMBERSHIP] and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures.

WIA Section 117(c)(3) DECERTIFICATION states:

- (A) FRAUD, ABUSE, FAILURE TO CARRY OUT FUNCTIONS – Notwithstanding paragraph (2) [CERTIFICATION], the Governor may decertify a local board, at any time after providing notice and an opportunity for comment, for-
 - (i) fraud or abuse; or
 - (ii) failure to carry out the functions specified for the local board in any of paragraphs (1) through (7) of subsection (d) [FUNCTIONS OF THE LOCAL BOARD].
- (B) NONPERFORMANCE – Notwithstanding paragraph 2 [CERTIFICATION], the Governor may decertify a local board if a local area fails to meet the local performance measures for such local area for 2 consecutive program years (in accordance with section 136(h)) [SANCTIONS FOR LOCAL AREA FAILURE TO MEET LOCAL PERFORMANCE MEASURES].

The Governor certified the current LWIBs in November of 2000, after determining that the appointment and composition of each LWIB was consistent with the criteria in WIA Section 117(b). By December of 2002, the Governor must determine whether or not to recertify each of California's 50 LWIBs and must consider each LWIB's performance in doing so. In order to assist the Governor in establishing performance criteria and subsequent decisions regarding certification of the local boards, the California Workforce Investment Board (State Board) convened a Local Area Work Group (Work Group). The Work Group advised the State Board staff on the development of a policy recommendation. Discussions focused on which mandated local performance measures to use in determining performance levels and what constitutes a reasonable threshold of performance on which to base recertification.

POLICY AND PROCEDURES:

Policy:

The [WIA Section 117](#) contains the requirements for nominating, selecting, and appointing LWIB members. Please refer to Subsections 117(b) and (c) for information regarding the process.

The WIA Section 117(c)(2) provides the federal requirement that LWIBs shall be certified every two years based on the required membership criteria. Per WIA Section 117(c)(3), LWIBs may be decertified for fraud, abuse, or failure to carry out their

required functions, or for failure to meet local performance measures for two consecutive years. On May 30, 2002, the State Board adopted the following policy for recertifying LWIBs, which includes the minimum criteria in California for achieving locally negotiated performance measures:

A LWIB may be recertified by December 2002, for two years, based on meeting the membership criteria, as described in the WIA Section 117, and its designated LWIA achieving 80 percent or higher on at least 9 of the 11 locally negotiated performance measures (excluding 2 customer service measures and 4 credential and diploma measures).

The 11 performance measures include:

ADULT	DISLOCATED WORKER	OLDER YOUTH	YOUNGER YOUTH
Entered Employment Rate	Entered Employment Rate	Entered Employment Rate	Skill Attainment Rate
Employment Retention Rate	Employment Retention Rate	Employment Retention Rate	Retention Rate
Earnings Change	Earnings Replacement	Earnings Change	

Procedures:

In order for the Governor to determine that LWIBs are in compliance with the membership requirements of WIA Section 117(b), all LWIBs are required to complete the attached LWIB Membership List and submit it to the Program Section of the Workforce Investment Division (WID). Comments are required to explain any unfilled or vacant positions. The form must be signed by the LWIB chairperson or officially designated alternate. The list is due at WID by 5:00 p.m. on October 31, 2002. For submittal instructions, see the subsection "ACTION" below.

Based on the performance outcomes reported to the Department of Labor in the State's Annual Report, the WID will calculate the achievement or nonachievement of a minimum of 80 percent in 9 of the 11 designated performance measures stipulated in the State policy for all 50 LWIAs. If a LWIA is not performing at a minimum of 80 percent in at least 9 of the 11 designated measures, State Board staff will coordinate with WID staff to identify the LWIA's needs relative to improving performance. This will include requiring the LWIA and/or the LWIB to develop a jointly signed corrective action plan and the WID staff working as necessary with the LWIA and/or the LWIB to help the local area improve its performance. The corrective action plan must be completed as required by WIA Directive WIAD02-4, Subject: LWIA Nonperformance Policy.

As defined by DOL for the purposes of the Annual Report, the measurement period for the Exemplary Performance incentive awards (see [WIA Directive WIAD01-11](#)), ***and on which nonperformance will be determined***, is the following:

For the 13 performance measures evaluated with data from the Unemployment Insurance wage record file, the 12-month measurement period begins October 1, prior to the beginning of the program year and ending the following September 30. For example, the measurement of the 13 performance measures is derived from the wage

record file for participants who exit the program from October 1, 2000, through September 30, 2001. This is the reporting period for the Program Year 2001-2002 Exemplary Performance incentive award.

This measurement period applies to the following measures:

- Adult and Older Youth: entered employment rate, employment retention rate, wage gain, and the employment and credential rate; and
- Dislocated Worker: entered employment rate, employment retention rate, wage gain, and the employment and credential rate; and
- Younger Youth: retention rate.

As stated in the policy, the employment and credential rates as well as the Younger Youth diploma rate and Participant and Employer customer satisfaction measures will not be included among the measures evaluated for LWIB recertification.

A summary report of the nonperformance regarding each applicable LWIA will be provided by WID to the State Board. The LWIB will be notified in writing by December 31, 2002, regarding its recertification status.

ACTION:

Please bring this directive to the attention of the LWIB and other relevant parties.

The LWIBs are required to complete the attached LWIB Membership List and submit it to the WID Program Section by 5:00 p.m., October 31, 2002.

Mail: Program Section
Workforce Investment Division, MIC 69-1
Employment Development Department
P. O. Box 826880
Sacramento, CA 94280-0001

Overnight Mail: Program Section
Workforce Investment Division, MIC 69-1
Employment Development Department
800 Capitol Mall
Sacramento, CA 95814

Hand Deliver: Program Section
Workforce Investment Division, MIC 69-1
Employment Development Department
750 N Street
Sacramento, CA 95814

INQUIRIES:

If you have questions concerning this directive, contact your assigned [Regional Advisor](#).

/S/ BILL BURKE

Chief

Workforce Investment Division

Attachment is available on the Internet:

[LWIB Membership List](#) (DOC) (165k)